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Klaus H. Wiesmann
Battelle Memorial Institute
505 King Avenue
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OFFICE OF PETITIONS

In re Application of
McGinniss et al.
Application No. 10/600,901
Filed: June 20, 2003
Attorney Docket No. 12665DIV1

Decision on Petition

This is a decision on the petition filed November 18, 2003, to accord the above-identified application a filing date of June 20, 2003. The Office apologizes for the delay in the issuance of a decision on the petition.

The petition is **granted**.

Facts:

Petitioner mailed the application on June 20, 2003, by Express Mail.

After the application was mailed, petitioner discovered portions of the application had been inadvertently omitted.

Petitioner mailed the missing portions on June 20, 2003, by Express Mail. The papers included discussion of the failure to include the papers when the application was filed.

Office records indicate a submission date of June 20, 2003, for both sets of papers and both sets of papers were associated with application no. 10/600,901.

On September 25, 2003, the Office of Initial Patent Examination mailed a Notice stating that the specification was not present and that a filing date had not been accorded and the filing date would be the date of receipt of specification.

In response, the present petition was filed requesting a filing date of June 20, 2003.

Analysis:

Since an issue concerning the submission dates of papers does not exist, the petition will be treated as a petition under 37 CFR 1.53 rather than a petition filed under 37 CFR 1.10.

The "application as filed" includes the first set of papers. The application as filed was not entitled to a filing date. In these circumstances, the Office notifies an applicant of the deficiency and notifies application that a filing date will be assigned upon the submission of the items. In other words, the filing date assigned is the date of the submission of the required items. In this case, all of the required items were mailed later on June 20, 2003. Therefore, the application is entitled to a filing date of June 20, 2003.

No petition fee is required and none has been charged.

The Notice mailed September 25, 2003, was sent in error and is hereby vacated.

The Office of Initial Patent Examination will process the application with a filing date of June 20, 2003, using all of the application papers which were received on June 20, 2003.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

A handwritten signature in black ink, appearing to read 'C. Brantley', is positioned above the printed name.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions